

87-094

ATTORNEY GENERAL
STEPHEN E. MERRILL

DEPUTY ATTORNEY GENERAL
BRUCE E. JOHL

ASSOCIATE ATTORNEYS GENERAL
BRIAN T. TUCKER
JEFFREY R. HOWARD

THE STATE OF NEW HAMPSHIRE



THE ATTORNEY GENERAL
CIVIL BUREAU
STATE HOUSE ANNEX
25 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

(603) 271-3658

January 5, 1988

SENIOR ASSISTANT ATTORNEYS GENERAL
LARRY M. SMUKLER
PETER T. FOLEY

ASSISTANT ATTORNEYS GENERAL
JOHN T. PAPPAS
DANIEL J. MULLEN
DAVID S. PECK
STEPHEN J. JUDGE
DOUGLAS N. JONES
SUSAN S. GEIGER
EMILY G. RICE
CHARLES T. PUTNAM

ATTORNEYS
ROBERT E. DUNN
MONICA A. CIOLFI

PARALEGAL
SUSAN M. GUNTHER

file

JUN 22 1988

George S. Mouflouze
Deputy Chief
Division of Enforcement
New Hampshire State Liquor Commission
Storrs Street
Concord, New Hampshire 03301

Dear Mr. Mouflouze:

You have requested our advice on the authority of the State Liquor Commission to suspend a license and/or prohibit a felon from remaining as a principal in a licensed corporation. It is our opinion that the Commission has the authority to revoke or suspend a liquor license of a corporation which either employs a convicted felon or has him as a director or officer of the corporation.

RSA 178:11 provides in pertinent part:

If a licensee or permittee violates any of the provisions of this chapter or any of the rules and regulations of the commission promulgated pursuant thereto or...knowingly employs in the sale or distribution of liquor or beverages any person who has been convicted of a felony..., the license or permit of any such licensee or permittee may be suspended by the commission without hearing, and may be revoked after notice and hearing.

Additionally, RSA 181:15 provides:

Before a permit is issued the commissioners shall be satisfied that the applicant is



financially responsible and generally fit for the trust to be him reposed; that the applicant if an individual, or, if a partnership, each of the members of the partnership, or, if a corporation each of its principal officers or directors, is of good moral character, is a citizen of the United States not less than 21 years of age, and has never been convicted of a felony.

Finally, LIQ 404:01 provides:

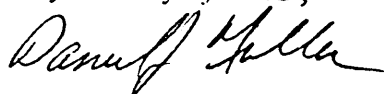
Persons in Charge of Licenses. Each permittee and licensee shall designate one or more persons to be in charge of their premises during their absence. Such persons must have reached their eighteenth birthday, not have been convicted of a felony and be approved by the commission.

Each of these provisions state that a permittee or a licensee shall not employ or be associated with an individual who has been convicted of a felony. In the particular case you have presented to us, it is our understanding that C & L Superette Corporation has as a director of the corporation an individual who was convicted of three felonies in Massachusetts in the 1970s. This particular individual also sold and handled alcoholic beverages on the premises. Additionally, as a director of the corporation, the individual in question submitted an application for an off-sale permit/license in which he stated that he had never been convicted of a felony.

Based upon these facts, it is our opinion that the Commission has the authority to revoke or suspend the license or permit granted to C & L Superette Corporation pursuant to RSA 178:11 because (1) RSA 181:15 was violated in that the individual who is the convicted felon submitted a false affidavit with the application for a permit/license; (2) LIQ 404:01 was violated in that the corporation allowed a convicted felon to sell or handle alcoholic beverages; and (3) the corporation knowingly employed a convicted felon.

I trust that this has been responsive to your inquiry. If you would like to discuss this matter further, or if you have questions about it, please contact me.

Very truly yours,



Daniel J. Mullen
Assistant Attorney General